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ASSIGNMENT OF LEASEINTERSTATE COMMERCE COMMISSION

This Assignment of Lease dated as of March 6, 1975, entered into by and between BAY DEVELOPMENT COMPANY, a Michigan corporation (the "Assignor"), and THE DETROIT BANK AND TRUST COMPANY, a Michigan banking corporation (the "Bank"),

WITNESSETH:

WHEREAS, the Assignor and the Bank have entered into a Conditional Sale Agreement dated as of February 7, 1975 (the "Conditional Sale Agreement"), and a Financing Agreement dated as of March 6, 1975 (the "Financing Agreement"), pursuant to which the Assignor has agreed to purchase from the Bank, and the Bank has agreed to sell to the Assignor, the remanufactured railway equipment listed and described in Schedule B attached to the Conditional Sale Agreement (said equipment hereinafter referred to as the "Equipment"); and

WHEREAS, the Assignor and Detroit and Mackinac Railway Company, a Michigan corporation (the "Lessee"), have entered into an Equipment Lease dated as of Jan 13/75, 1975 (the "Lease"), pursuant to which the Lessee has leased from the Assignor the Equipment; and

WHEREAS, in order to induce the Bank to loan and advance the Conditional Sale Indebtedness (as that term is defined in the Conditional Sale Agreement) to the Assignor and in order to provide security for the obligations of the Assignor under the Conditional Sale Agreement, and the Financing Agreement, the Assignor has agreed to assign for security purposes its rights in, to and under the Lease to the Bank.

NOW, THEREFORE, in consideration of the promises and the covenants hereinafter contained, the parties hereto agree as follows:

1. The Assignor hereby assigns, transfers and sets over to the Bank, as collateral security for the payment and performance of the Assignor's obligations under the Conditional Sale Agreement, and the Financing Agreement, all the Assignor's right, title and interests, powers, privileges and other benefits under and pursuant to the Lease, including, but not limited to, the right to receive and collect all rentals, profits and other sums payable to or receivable by the Assignor from the Lessee pursuant to the provisions of the Lease, whether rent, casualty payment, indemnity, liquidated damages or otherwise, together with the right to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of an event of default specified in the Lease, and to do any and all other things whatsoever which the Assignor is or may become entitled to do under the Lease. In furtherance thereof, the Assignor hereby irrevocably authorizes and empowers the Bank in its own name, or in the name of its nominee, or in the name of the Assignor to ask, demand, sue for, collect and receive any and all sums to which the Assignor is or may become entitled to under the Lease, and to enforce compliance by the Lessee with all the terms and provisions thereof. Notwithstanding the foregoing provisions hereof, the Assignee shall not demand, sue for, collect or receive rentals, profits or other sums payable under and pursuant to the Lease unless and until the Assignor shall have defaulted in the performance of one or more of the obligations imposed upon it under the above-referenced Financing Agreement or Conditional Sale Agreement or this Assignment of Lease.

2. The execution and delivery of this Assignment shall not subject the Bank to, or transfer, pass or in any way modify or affect, the liability of the Assignor under the Lease. The Bank shall have no obligation or duty to enforce payment of any sum due under the Lease, and the Bank does not assume and shall not be subject to any obligation or liabilities under the Lease.
3. The Assignor warrants and covenants that:
 - (a) The lease is the valid, genuine and legally enforceable obligation of the parties thereto;
 - (b) The Railway equipment comprising the Equipment has been delivered to and accepted by the Lessee under the Lease;
 - (c) The Assignor has performed and will perform all things required of it under the Lease;
 - (d) The Assignor will not amend, modify, terminate or otherwise alter the terms of the Lease, nor accept surrender of any item comprising the Equipment, without the prior written consent of the Bank; and
 - (e) No assignment of the Lease or any payments due thereunder has been made to any other person.
4. Upon the full discharge and satisfaction of all of the Assignor's obligations under the Conditional Sale Agreement, and the Financing Agreement, this Assignment and all the rights herein assigned to the Bank shall terminate, and all right, title and interest of the Bank in and to the Lease shall revert to the Assignor.
5. If an event of default under the Conditional Sale Agreement or the Financing Agreement shall occur and be continuing, the Bank may apply all payments made pursuant to the Lease against the amounts due and payable under the Conditional Sale Agreement and may otherwise enforce all the rights and remedies of the Assignor under the Lease and apply the net proceeds from such exercise against the amounts due and payable under the Conditional Sale Agreement.
6. The Assignor will, from time to time, do and perform any other act and will execute, acknowledge, deliver and file any and all further instruments required by law or reasonably requested by the Bank in order to confirm or further assure the interest of the Bank hereunder.
7. The Bank may assign all or any of the rights assigned to it hereby or arising under the Lease, including, but not limited to, the right to receive any payments due or to become due under the Lease. In the event of any such assignment, any such subsequent or successor assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Bank hereunder.
8. This Assignment shall be governed by the laws of the State of Michigan, but the parties hereto shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act.

9. It is hereby mutually agreed that the Bank has retained security title to the Equipment, and in the event the Bank exercises its rights in and to the Equipment, or a portion thereof, whether upon the occurrence of an event of default under and pursuant to the Conditional Sale Agreement or otherwise, the Bank may sell or transfer the Equipment or a portion thereof, at its option, free and clear of, or subject to, the Lease, as the Bank in its discretion shall determine in each instance.
10. Should any warranty, representation or agreement herein contained be or become untrue or unperformed, then, or at any time thereafter at the option of the Bank, the indebtedness of Assignor secured hereby shall become, without notice, immediately due and payable.
11. Nothing herein contained shall alter or impair the obligations of the Assignor under and pursuant to the terms of any other agreement between the Assignor and the Bank, and the rights of the Bank hereunder are in addition to the rights of the Bank under the terms of any such other agreement and as provided by law.
12. The Bank hereby agrees that it will not, so long as an event of default under the Lease or under the Conditional Sale Agreement has not occurred, exercise or enforce, or seek to exercise or enforce, any of the rights, powers, privileges, authorizations or benefits assigned and transferred by the Assignor to the Bank pursuant to this Assignment.

IN WITNESS WHEREOF, the parties hereto have caused this Assignment to be executed in their respective corporate names by officers thereunto duly authorized, and their respective corporate seals to be affixed and duly attested, all as of the date first above written.

BAY DEVELOPMENT COMPANY

By Charles A. Pinkerton III
Charles A. Pinkerton III
Its President


By Glen C. Highfield
Glen C. Highfield
Its Secretary

(Corporate Seal)

Attest:

By Charles A. Pinkerton III
Its President

THE DETROIT BANK AND TRUST COMPANY

By 

Robert C. Robinson

Its Vice President

(Corporate Seal)

Attest:

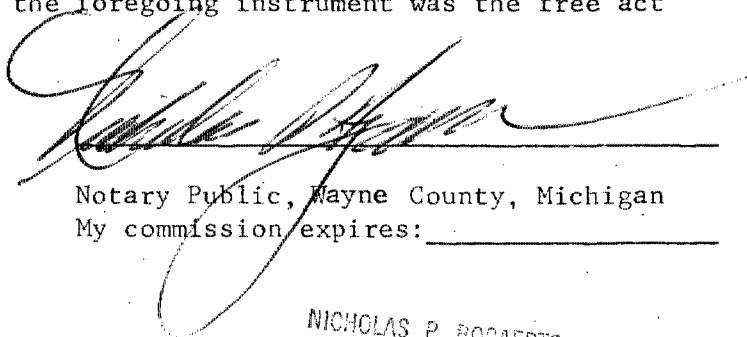
By 

Its ASST. CASHIER

State of Michigan)
) ss
County of Wayne)

On this 6 day of March, 1975, before me, a Notary Public in
and for said County, personally appeared Charles A. Pinkerton III & Glen C. Highfield,
to me personally known, who, being by me duly sworn, says that they are the President and Secretary
of BAY DEVELOPMENT

COMPANY, a Michigan corporation, that the seal affixed to the foregoing instrument
is the corporate seal of said corporation, that said instrument was signed and
sealed on behalf of said corporation by authority of its Board of Directors, and
he acknowledged that the execution of the foregoing instrument was the free act
and deed of said corporation.

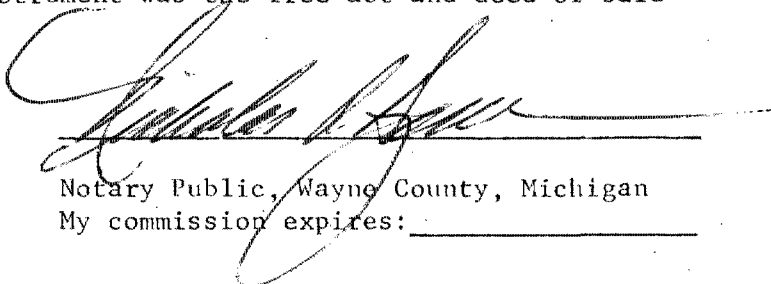

Notary Public, Wayne County, Michigan
My commission expires: _____

(Notarial Seal)

NICHOLAS P. BOGAERTS
Notary Public, Oakland County, Mich.
Acting in Wayne County, Mich.
My Commission Expires May 20, 1978

State of Michigan)
) ss
County of Wayne)

On this 6 day of March, 1975, before me, a Notary Public
in and for said County, personally appeared Robert C. Robinson,
to me personally known, who, being by me duly sworn, says that he is the Vice President
of THE DETROIT BANK AND TRUST COMPANY, a Michigan
banking corporation, that the seal affixed to the foregoing instrument is the
corporate seal of said corporation, that said instrument was signed and sealed on
behalf of said corporation by authority of its Board of Directors, and he acknowledged
that the execution of the foregoing instrument was the free act and deed of said
corporation.


Notary Public, Wayne County, Michigan
My commission expires: _____

(Notarial Seal)

NICHOLAS P. BOGAERTS
Notary Public, Oakland County, Mich.
Acting in Wayne County, Mich.
My Commission Expires May 20, 1978

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INTERSTATE COMMERCE COMMISSION

MODEL CONDITIONAL SALE PROVISIONS

ARTICLE 2. *Construction and Sale.* Pursuant to this Agreement, the Builder shall construct the Equipment at its plant set forth in Schedule B hereto, and will sell and deliver to the Railroad, and the Railroad will purchase from the Builder and accept delivery of and pay for (as hereinafter provided), the Equipment, each unit of which shall be constructed in accordance with the specifications referred to in Schedule B hereto and in accordance with such modifications thereof as may be agreed upon in writing between the Builder and the Railroad (which specifications and modifications, if any, are hereinafter called the Specifications). The design, quality and component parts of each unit of the Equipment shall conform, on the date of completion of manufacture of each thereof, to all Department of Transportation and Interstate Commerce Commission requirements and specifications for new equipment and to all standards recommended by the Association of American Railroads interpreted as being applicable to railroad equipment of the character of such units of the Equipment, and each unit of the Equipment (except to the extent, if any, referred to in Article 8 hereof) will be new railroad equipment.

ARTICLE 3. *Inspection and Delivery.* The Builder will deliver the units of the Equipment to the Railroad at the place or places specified in Schedule B hereto (or if Schedule B does not specify a place or places, at the place or places designated from time to time by the Railroad), freight charges, if any, prepaid, in accordance with the delivery schedule set forth in Schedule B hereto.

The Builder's obligation as to time of delivery is subject, however, to delays resulting from causes beyond the Builder's reasonable control, including but not limited to acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riot or civil commotion, sabotage, strikes, differences with workmen, accidents, fire, flood, explosion, damage to plant, equipment or facilities, delays in receiving necessary materials or delays of carriers or subcontractors.

Notwithstanding the preceding provisions of this Article 3, any Equipment not delivered, accepted and settled for pursuant to Article 4 hereof on or before the date set forth in Item 2 of Schedule A hereto shall be excluded herefrom. If any Equipment shall be excluded from this Agreement pursuant to the immediately preceding sentence, the Railroad and the Builder shall execute an agreement supplemental hereto limiting this Agreement to the Equipment not so excluded herefrom. If the Builder's failure to deliver Equipment so excluded from this Agreement resulted from one or more of the causes set forth in the immediately preceding paragraph, the Railroad shall nevertheless be obligated to accept such Equipment and pay the full purchase price therefor, determined as provided in this Agreement, if and when such Equipment shall be completed and delivered by the Builder, such payment to be in cash on the delivery of such Equipment, either directly or, in case the Railroad shall arrange therefor, by means of a conditional sale agreement, equipment trust or such other appropriate method of financing as the Railroad shall determine.

During construction, the Equipment shall be subject to inspection and approval by the authorized inspectors of the Railroad and the Builder shall grant to such authorized inspectors reasonable access to its plant. The Builder agrees to inspect all materials used in the construction of the

Equipment in accordance with the standard quality control practices of the Builder. Upon completion of each unit or of a number of units of the Equipment, such unit or units shall be presented to an inspector of the Railroad for inspection at the place specified for delivery of such unit or units, and if each such unit conforms to the Specifications, requirements and standards applicable thereto, such inspector or an authorized representative of the Railroad shall execute and deliver to the Builder a certificate of acceptance (hereinafter called the Certificate of Acceptance) stating that such unit or units have been inspected and accepted on behalf of the Railroad and are marked in accordance with Article 7 hereof; *provided, however*, that the Builder shall not thereby be relieved of its warranty set forth or referred to in Article 10 hereof.

On delivery of each such unit hereunder at the place specified for delivery, the Railroad will assume with respect thereto the responsibility and risk of, and shall not be released from its obligations hereunder in the event of, any damage to or the destruction or loss of any unit of or all the Equipment; *provided, however*, that the Builder shall not thereby be relieved of its warranty set forth or referred to in Article 10 hereof.

ARTICLE 5. Taxes. All payments to be made by the Railroad hereunder will be free of expense to the Vendor for collection or other charges and will be free of expense to the Vendor with respect to the amount of any local, state or federal taxes (other than net income, gross receipts [except gross receipts taxes in the nature of or in lieu of sales taxes], excess profits and similar taxes) or license fees, fines or penalties hereafter levied or imposed upon, or measured by, this Agreement or any sale, use, payment, shipment, delivery or transfer of title under the terms hereof, all of which expenses, taxes and license fees, fines

and penalties the Railroad assumes and agrees to pay on demand in addition to the indebtedness in respect of the Purchase Price of the Equipment. The Railroad will also pay promptly all taxes and assessments which may be imposed upon the Equipment delivered to it or for the use or operation thereof by the Railroad or upon the earnings arising therefrom or upon the Vendor solely by reason of its ownership thereof and will keep at all times all and every part of the Equipment free and clear of all taxes and assessments which might in any way affect the title of the Vendor or result in a lien upon any unit of the Equipment; *provided, however*, that the Railroad shall be under no obligation to pay any taxes, assessments, license fees, charges, fines or penalties of any kind so long as it is contesting in good faith and by appropriate legal proceedings such taxes, assessments, license fees, charges, fines or penalties and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect the property or rights of the Vendor in or to the Equipment or otherwise under this Agreement. If any such expenses, taxes, assessments, license fees, charges, fines or penalties shall have been charged or levied against the Vendor directly and paid by the Vendor, the Railroad shall reimburse the Vendor upon presentation of an invoice therefor, and any amounts so paid by the Vendor shall be secured by and under this Agreement; *provided, however*, that the Railroad shall not be obligated to reimburse the Vendor for any expenses, taxes, assessments, license fees, charges, fines or penalties so paid unless the Vendor shall have been legally liable with respect thereto (as evidenced by an opinion of counsel for the Vendor), or unless the Railroad shall have approved the payment thereof.

ARTICLE 6. *Title to the Equipment.* The Vendor shall and hereby does retain the full legal title to and property

in the Equipment until the Railroad shall have made all its payments under this Agreement and shall have kept and performed all its agreements herein contained, notwithstanding the delivery of the Equipment to and the possession and use thereof by the Railroad as provided in this Agreement. Any and all additions to the Equipment and any and all replacements of the Equipment and of parts thereof and additions thereto shall constitute accessions to the Equipment and shall be subject to all the terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement.

When and only when the Vendor shall have been paid the full indebtedness in respect of the Purchase Price of the Equipment, together with interest and all other payments as herein provided, and all the Railroad's obligations herein contained shall have been performed by the Railroad, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Railroad without further transfer or action on the part of the Vendor. However, the Vendor, if so requested by the Railroad at that time, will (a) execute a bill or bills of sale for the Equipment transferring its title thereto and property therein to the Railroad, or upon its order, free of all liens, security interests and other encumbrances created or retained hereby and deliver such bill or bills of sale to the Railroad at its address referred to in Article 23 hereof, (b) execute and deliver at the same place, for filing, recording or depositing in all necessary public offices, such instrument or instruments in writing as may be necessary or appropriate in order then to make clear upon the public records the title of the Railroad to the Equipment and (c) pay to the Railroad any money paid to the Vendor pursuant to Article 8 hereof and not theretofore applied as therein provided. The Railroad hereby waives and releases any and all rights, existing or that may be acquired, in or to the payment of

any penalty, forfeit or damages for failure to execute and deliver such bill or bills of sale or instrument or instruments or to file any certificate of payment in compliance with any law or statute requiring the filing of the same, except for failure to execute and deliver such bill or bills of sale or instrument or instruments or to file such certificate within a reasonable time after written demand by the Railroad.

ARTICLE 7. *Marking of Equipment.* The Railroad will cause each unit of the Equipment to be kept numbered with its identifying number as set out in Schedule B hereto, or in the case of Equipment not there listed such identifying number as shall be set forth in any amendment or supplement hereto extending this Agreement to cover such Equipment, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each unit, in letters not less than one inch in height, the name of the Vendor followed by the words "Agent, Owner" or other appropriate words designated by the Vendor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Vendor's title to and property in the Equipment and its rights under this Agreement. The Railroad will not place any such unit in operation or exercise any control or dominion over any part thereof until such name and words shall have been so marked on each side thereof and will replace promptly any such name and words which may be removed, defaced or destroyed. The Railroad will not change the number of any unit of the Equipment except in accordance with a statement of new number or numbers to be substituted therefor, which statement previously shall have been filed with the Vendor by the Railroad and filed and recorded by the Railroad in all public offices where this Agreement shall have been filed and recorded.

ARTICLE 11. *Compliance with Laws and Rules.* During the term of this Agreement, the Railroad will at all times comply in all respects with all laws of the jurisdictions in which its operations involving the Equipment may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the Department of Transportation, Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Equipment, to the extent that such laws and rules affect the title, operation or use of the Equipment, and in the event that such laws or rules require any alteration of the Equipment, the Railroad will conform therewith, at its expense, and will maintain the same in proper condition for operation under such laws and rules; *provided, however,* that the Railroad may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Vendor, adversely affect the property or rights of the Vendor under this Agreement.

ARTICLE 12. *Reports and Inspections.* On or before March 31 in each year, commencing with the calendar year which begins after the expiration of 180 days from the date of this Agreement, the Railroad shall furnish to the Vendor an accurate statement signed by an officer of the Railroad (a) setting forth as at the preceding December 31 the amount, description and numbers of all units of the Equipment that have suffered a Casualty Occurrence during the preceding calendar year (or since the date of this Agreement in the case of the first such statement) and such other information regarding the condition and state of repair of the Equipment as the Vendor may reasonably request and (b) stating that, in the case of all Equipment repaired or repainted during the period covered by such statement, the numbers and markings required by Article 7

hereof have been preserved or replaced. The Vendor shall have the right, by its agents, to inspect the Equipment and the Railroad's records with respect thereto at such reasonable times as the Vendor may request during the term of this Agreement.

ARTICLE 13. *Possession and Use.* The Railroad, so long as an event of default shall not have occurred under this Agreement and be continuing, shall be entitled to the possession of the Equipment and the use thereof upon the lines of railroad owned or operated by it either alone or jointly with others and whether under lease or otherwise, or upon the lines of railroad owned or operated by any railroad company controlled by, or under common control with, the Railroad, or over which it has trackage rights, or upon connecting and other carriers in the usual interchange of traffic, from and after delivery of the Equipment by the Builder to the Railroad, but only upon and subject to all the terms and conditions of this Agreement.

ARTICLE 14. *Prohibition Against Liens.* The Railroad will pay or discharge any and all sums claimed by any party from, through or under the Railroad or its successors or assigns which, if unpaid, might become a lien, charge or security interest upon the Equipment, or any unit thereof, equal or superior to the Vendor's title thereto or property therein, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect the property or rights of the Vendor in or to the Equipment or otherwise under this Agreement. Any amounts paid by the Vendor in discharge of liens, charges or security interests upon the Equipment shall be secured by and under this Agreement.

This covenant will not be deemed breached by reason of liens for taxes, assessments or governmental charges or levies, in each case not due and delinquent, or undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of business and, in each case, not delinquent.

ARTICLE 15. *Railroad's Indemnities.* The Railroad agrees to indemnify, protect and hold harmless the Vendor from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including counsel fees, arising out of retention by the Vendor of title to the Equipment, the use and operation thereof by the Railroad during the period when title thereto remains in the Vendor or the transfer of title to the Equipment by the Vendor pursuant to any of the provisions of this Agreement. This covenant of indemnity shall continue in full force and effect notwithstanding the full payment of the indebtedness in respect of the Purchase Price of the Equipment or the termination of this Agreement in any manner whatsoever.

ARTICLE 16. *Patent Indemnities.* Except in cases of articles or materials specified by the Railroad and not manufactured by the Builder and in cases of designs, systems, processes, formulae or combinations specified by the Railroad and not developed or purported to be developed by the Builder, the Builder agrees to indemnify, protect and hold harmless the Railroad from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Railroad, its assigns or the users of the Equipment because of the use in or about the construction or operation of any of the Equipment of

any design, system, process, formula, combination, article or material which infringes or is claimed to infringe on any patent or other right. The Railroad likewise will indemnify, protect and hold harmless the Vendor from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Vendor because of the use in or about the construction or operation of any of the Equipment of any article or material specified by the Railroad and not manufactured by the Builder or of any design, system, process, formula or combination specified by the Railroad and not developed or purported to be developed by the Builder which infringes or is claimed to infringe on any patent or other right. The Builder agrees to and hereby does, to the extent legally possible without impairing any claim, right or cause of action hereinafter referred to, assign, set over and deliver to the Railroad every claim, right and cause of action which the Builder has or hereafter shall have against the seller or sellers of any designs, systems, processes, formulae, combinations, articles or materials specified by the Railroad and purchased or otherwise acquired by the Builder for use in or about the construction or operation of any of the Equipment, on the ground that any such design, system, process, formula, combination, article or material or operation thereof infringes or is claimed to infringe on any patent or other right. The Builder further agrees to execute and deliver to the Railroad or the users of the Equipment all and every such further assurance as may be reasonably requested by the Railroad more fully to effectuate the assignment and delivery of every such claim, right and cause of action. The Builder will give notice to the Railroad of any claim known to the Builder from which liability may be charged against the Railroad hereunder and the Railroad will give notice to the Builder of any claim known to the

Railroad from which liability may be charged against the Builder hereunder. Such covenants of indemnity shall continue in full force and effect notwithstanding the full payment of all sums due under this Agreement, the satisfaction and discharge of this Agreement or the termination of this Agreement in any manner.

ARTICLE 17. *Assignments.* The Railroad will not sell, assign, transfer or otherwise dispose of its rights under this Agreement or, except as provided in Article 13 hereof, transfer the right to possession of any unit of the Equipment without first obtaining the written consent of the Vendor. An assignment or transfer to a railroad company organized under the laws of the United States of America or any of the states thereof which shall acquire all or substantially all the lines of railroad of the Railroad, and which, by execution of an appropriate instrument satisfactory to the Vendor, shall assume and agree to perform each of and all the obligations and covenants of the Railroad under this Agreement, shall not be deemed a breach of this covenant.

All or any of the rights, benefits and advantages of the Vendor under this Agreement, including the right to receive the payments herein provided to be made by the Railroad, may be assigned by the Vendor and reassigned by any assignee at any time or from time to time. No such assignment shall subject any assignee to, or relieve the Builder from, any of the obligations of the Builder to construct and deliver the Equipment in accordance with this Agreement or to respond to any of its warranties and indemnities under Articles 10 and 16 hereof, or relieve the Railroad of any of its obligations to the Builder under Articles 2, 3, 4, 5, 10, 15 and 16 hereof and this Article 17 or of any other obligation which, according to its terms and context, is intended to survive an assignment.

Upon any such assignment either the assignor or the assignee shall give written notice to the Railroad, together with a counterpart or copy of such assignment, stating the identity and post office address of the assignee, and such assignee shall by virtue of such assignment acquire all the assignor's right, title and interest in and to the Equipment and this Agreement, or in and to a portion thereof, as the case may be, subject only to such reservations as may be contained in such assignment. From and after the receipt by the Railroad of the notification of any such assignment, all payments thereafter to be made by the Railroad under this Agreement shall, to the extent so assigned, be made to the assignee in such manner as it may direct.

The Railroad recognizes that it is the custom of railroad equipment manufacturers to assign conditional sale agreements and understands that the assignment of this Agreement, or of some of or all the rights of the Vendor hereunder, is contemplated. The Railroad expressly represents, for the purpose of assurance to any person, firm or corporation considering the acquisition of this Agreement or of all or any of the rights of the Vendor hereunder and for the purpose of inducing such acquisition, that in the event of such assignment by the Vendor as hereinbefore provided, the rights of such assignee to the entire unpaid indebtedness in respect of the Purchase Price or such part thereof as may be assigned, together with interest thereon, as well as any other rights hereunder which may be so assigned, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever arising out of any breach of any obligation of the Builder with respect to the Equipment or the manufacture, construction, delivery or warranty thereof, or with respect to any indemnity herein contained, nor subject to any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Railroad by the

Builder. Any and all such obligations, howsoever arising, shall be and remain enforceable by the Railroad against and only against the Builder.

In the event of any such assignment or successive assignments by the Vendor of title to the Equipment and of some of or all the Vendor's rights under this Agreement with respect thereto, the Railroad will, whenever requested by the assignee, change the markings on each side of each unit of the Equipment so as to indicate the title of such assignee to the Equipment, such markings to be such as shall be specified by such assignee, subject to any requirements of the laws of the jurisdictions in which the Equipment shall be operated by the Railroad. The cost of such markings in the event of an assignment of not less than all the Equipment at the time covered by this Agreement shall be borne by the Railroad and, in the event of any assignment of less than all such Equipment, such cost shall be borne by such assignee.

In the event of any such assignment prior to settlement for all the Equipment, the Railroad will (a) in connection with each settlement for a Group of Equipment subsequent to such assignment, deliver to the assignee, at the time of delivery by the Railroad of notice fixing the Closing Date with respect to such Group, all documents required by the terms of such assignment to be delivered to such assignee in connection with such settlement, in such number of counterparts or copies as may reasonably be requested, except for any opinion of counsel for such assignee, and (b) furnish to such assignee such number of copies or counterparts of any other certificate or paper required by the Vendor as may reasonably be requested.

If this Agreement shall have been assigned by the Builder and the assignee shall not make payment to the Builder with respect to units of the Equipment as provided

in the instrument making such assignment, the Builder will promptly notify the Railroad of such event and, if such amount shall not have been previously paid by such assignee, the Railroad will, not later than 90 days after the date such payment was due, pay or cause to be paid to the Builder the aggregate unpaid Purchase Price of such units, together with interest from the date such payment was due to the date of payment by the Railroad at the highest prime rate of interest of leading New York City banks in effect on the date such payment was due.

ARTICLE 18. *Defaults.* In the event that any one or more of the following events of default shall occur and be continuing, to wit:

(a) the Railroad shall fail to pay in full any indebtedness in respect of the Purchase Price of the Equipment or any other sum payable by the Railroad as provided in this Agreement within five days after payment thereof shall be due hereunder; or

(b) the Railroad shall, for more than 30 days after the Vendor shall have demanded in writing performance thereof, fail or refuse to comply with any covenant, agreement, term or provision of this Agreement, or of any agreement entered into concurrently herewith relating to the financing of the Equipment, on its part to be kept or performed or to make provision satisfactory to the Vendor for such compliance; or

(c) a petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may be hereafter amended, shall be filed by or against the Railroad and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall

continue), all the obligations of the Railroad under this Agreement shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed in such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within 30 days after such appointment, if any, or 60 days after such petition shall have been filed, whichever shall be earlier; or

(d) any proceedings shall be commenced by or against the Railroad for any relief which includes, or might result in, any modification of the obligations of the Railroad hereunder under any bankruptcy or insolvency law, or law relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions, and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Railroad under this Agreement shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed for the Railroad or for its property in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier; or

(e) the Railroad shall make or suffer any unauthorized assignment or transfer of this Agreement or any interest herein or any unauthorized transfer of the right to possession of any unit of the Equipment; or

(f) an event of default shall occur under the Other Agreement or Agreements, if any, referred to and defined in Article 4 hereof;

then at any time after the occurrence of such an event of default the Vendor may, upon written notice to the Railroad and upon compliance with any mandatory legal requirements then in force and applicable to such action by the Vendor, declare the entire indebtedness in respect of the Purchase Price of the Equipment, together with the interest thereon then accrued and unpaid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of such indebtedness and interest shall bear interest from the date of such declaration at the rate per annum specified in Article 4 hereof as being applicable to amounts remaining unpaid after becoming due and payable, to the extent legally enforceable. The Vendor shall thereupon be entitled to recover judgment for the entire unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment so payable, with interest as aforesaid, and to collect such judgment out of any property of the Railroad wherever situated.

The Vendor may at its election waive any such event of default and its consequences and rescind and annul any such declaration by notice to the Railroad in writing to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such event of default had occurred and no such declaration had been made. Notwithstanding the provisions of this paragraph, it is expressly understood and agreed by the Railroad that time is of the essence of this Agreement and that no such waiver, rescission or annulment shall extend to or affect any other or subsequent default or impair any rights or remedies consequent thereon.

ARTICLE 19. *Remedies.* At any time after the entire indebtedness in respect of the Purchase Price of the Equipment shall have been declared immediately due and payable as hereinbefore provided (unless such declaration has been rescinded and annulled as provided in Article 18 hereof), the Vendor may, upon such further notice, if any, as may be required for compliance with any mandatory legal requirements then in force and applicable to the action to be taken by the Vendor, take or cause to be taken by its agent or agents immediate possession of the Equipment, or any unit thereof, without liability to return to the Railroad any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Article 19 expressly provided, and may remove the same from possession and use of the Railroad or any other person and for such purpose may enter upon the Railroad's premises or any other premises where the Equipment may be located and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or means of the Railroad, with or without process of law.

In case the Vendor shall demand possession of the Equipment pursuant to this Agreement and shall reasonably designate a point or points upon the premises of the Railroad for the delivery of the Equipment to the Vendor, the Railroad shall, at its own expense, forthwith and in the usual manner, cause the Equipment to be moved to such point or points on its lines as shall be designated by the Vendor and shall there deliver the Equipment or cause it to be delivered to the Vendor. At the option of the Vendor, the Vendor may keep the Equipment on any of the lines or premises of the Railroad until the Vendor shall have leased, sold or otherwise disposed of the same, and for such purpose the Railroad agrees to furnish, without charge for rent or storage, the necessary facilities at any

point or points selected by the Vendor reasonably convenient to the Railroad. This agreement to deliver the Equipment and furnish facilities as hereinbefore provided is of the essence of the agreement between the parties, and, upon application to any court of equity having jurisdiction in the premises, the Vendor shall be entitled to a decree against the Railroad requiring specific performance hereof. The Railroad hereby expressly waives any and all claims against the Vendor and its agent or agents for damages of whatever nature in connection with any retaking of any unit of the Equipment in any reasonable manner.

At any time after the entire indebtedness in respect of the Purchase Price of the Equipment shall have been declared immediately due and payable as hereinbefore provided (unless such declaration has been rescinded and annulled as provided in Article 18 hereof), the Vendor (after retaking possession of the Equipment as hereinbefore in this Article 19 provided) may at its election and upon such notice as is hereinafter set forth retain the Equipment in satisfaction of the entire indebtedness in respect of the Purchase Price of the Equipment and make such disposition thereof as the Vendor shall deem fit. Written notice of the Vendor's election to retain the Equipment shall be given to the Railroad by telegram or registered mail, addressed as provided in Article 23 hereof, and to any other persons to whom the law may require notice, within 30 days after the entire indebtedness in respect of the Purchase Price of the Equipment shall have been declared immediately due and payable. In the event that the Vendor should elect to retain the Equipment and no objection is made thereto within the 30-day period described in the second proviso below, all the Railroad's rights in the Equipment shall thereupon terminate and all payments made by the Railroad may be retained by the Vendor as compensation for the use of the Equipment by the Railroad; *provided, however*, that if the Rail-

road, before the expiration of the 30-day period described in the proviso below, should pay or cause to be paid to the Vendor the total unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon accrued and unpaid and all other payments due under this Agreement, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Railroad; *provided, further*, that if the Railroad or any other persons notified under the terms of this paragraph object in writing to the Vendor within 30 days from the receipt of notice of the Vendor's election to retain the Equipment, then the Vendor may not so retain the Equipment, but shall sell, lease or otherwise dispose of it or continue to hold it pending sale, lease or other disposition as hereinafter provided or as may otherwise be permitted by law. If the Vendor shall have given no notice to retain as hereinabove provided or notice of intention to dispose of the Equipment in any other manner, it shall be deemed to have elected to sell the Equipment in accordance with the provisions of this Article 19.

At any time after the entire indebtedness in respect of the Purchase Price of the Equipment shall have been declared immediately due and payable as hereinbefore provided (unless such declaration has been rescinded and annulled as provided in Article 18 hereof), the Vendor, with or without retaking possession thereof, at its election and upon reasonable notice to the Railroad and to any other persons to whom the law may require notice of the time and place, may sell the Equipment, or any unit thereof, free from any and all claims of the Railroad or any other party claiming from, through or under the Railroad at law or in equity, at public or private sale and with or without advertisement as the Vendor may determine; *provided, however*, that if, prior to such sale and prior to the making of a contract for such sale, the Railroad should tender full payment of the

total unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon accrued and unpaid and all other payments due under this Agreement as well as expenses of the Vendor in retaking possession of, removing, storing, holding and preparing the Equipment for, and otherwise arranging for, the sale and the Vendor's reasonable attorneys' fees, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Railroad. The proceeds of such sale, less the attorneys' fees and any other expenses incurred by the Vendor in retaking possession of, removing, storing, holding, preparing for sale and selling the Equipment, shall be credited on the amount due to the Vendor under the provisions of this Agreement.

Any sale hereunder may be held or conducted at New York, New York, at such time or times as the Vendor may specify (unless the Vendor shall specify a different place or places, in which case the sale shall be held at such place or places as the Vendor may specify), in one lot and as an entirety or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Vendor may determine. The Railroad shall be given written notice of such sale not less than ten days prior thereto, by telegram or registered mail addressed to the Railroad as provided in Article 23 hereof. If such sale shall be a private sale, it shall be subject to the right of the Railroad to purchase or provide a purchaser, within ten days after notice of the proposed sale price, at the same price offered by the intending purchaser or a better price. The Vendor or the Railroad may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale. In the event that the Vendor shall be the purchaser thereof, it shall not be accountable to the Railroad (except to the extent of surplus money received as hereinafter provided in this Article 19), and in payment of the purchase price

therefor the Vendor shall be entitled to have credited on account thereof all sums due to the Vendor from the Railroad hereunder.

Each and every power and remedy hereby specifically given to the Vendor shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by the Vendor. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Vendor in the exercise of any such power or remedy and no renewal or extension of any payments due hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein. Any extension of time for payment hereunder or other indulgence duly granted to the Railroad shall not otherwise alter or affect the Vendor's rights or the Railroad's obligations hereunder. The Vendor's acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the Railroad's obligations or the Vendor's rights hereunder with respect to any subsequent payments or default therein.

If, after applying all sums of money realized by the Vendor under the remedies herein provided, there shall remain any amount due to it under the provisions of this Agreement, the Railroad shall pay the amount of such deficiency to the Vendor upon demand, and, if the Railroad shall fail to pay such deficiency, the Vendor may bring suit therefor and shall be entitled to recover a judgment therefor against the Railroad. If, after applying as aforesaid all sums realized by the Vendor, there shall remain a surplus in the possession of the Vendor, such surplus shall be paid to the Railroad.

The Railroad will pay all reasonable expenses, including attorneys' fees, incurred by the Vendor in enforcing its remedies under the terms of this Agreement. In the event that the Vendor shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Vendor may recover reasonable expenses, including attorneys' fees, and the amount thereof shall be included in such judgment.

The foregoing provisions of this Article 19 are subject in all respects to all mandatory legal requirements at the time in force and applicable thereto.

ARTICLE 20. *Applicable State Laws.* Any provision of this Agreement prohibited by any applicable law of any jurisdiction (which is not overridden by applicable federal law) shall as to such jurisdiction be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any such applicable law may be waived, they are hereby waived by the Railroad to the full extent permitted by law, it being the intention of the parties hereto that this Agreement shall be deemed to be a conditional sale and enforced as such.

Except as otherwise provided in this Agreement, the Railroad, to the full extent permitted by law, hereby waives all statutory or other legal requirements for any notice of any kind, notice of intention to take possession of or to sell or lease the Equipment, or any unit thereof, and any other requirements as to the time, place and terms of the sale or lease thereof, any other requirements with respect to the enforcement of the Vendor's rights under this Agreement and any and all rights of redemption.

ARTICLE 21. *Recording.* The Railroad will cause this Agreement, any assignments hereof and any amendments or supplements hereto or thereto to be filed and recorded

with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act; and the Railroad will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, deposit and record any and all further instruments required by law or reasonably requested by the Vendor for the purpose of proper protection, to the satisfaction of counsel for the Vendor, of its title to the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement; and the Railroad will promptly furnish to the Vendor certificates or other evidence of such filing, registering, depositing and recording satisfactory to the Vendor.

ARTICLE 22. *Payment of Expenses.* The Railroad will pay all reasonable costs and expenses (other than the fees and expenses of counsel for the Builder) incident to this Agreement and the first assignment of this Agreement (including the fees and expenses of an agent, if the first assignee is an agent), and any instrument supplemental or related hereto or thereto, including all fees and expenses of counsel for the first assignee of this Agreement and for any party acquiring interests in such first assignment, and all reasonable costs and expenses in connection with the transfer by any party of interests acquired in such first assignment. For the purposes of this Article 22, if the first assignee is an agent, then any successor agent to such agent shall also be considered the first assignee.

ARTICLE 24. *Article Headings; Effect and Modification of Agreement.* All article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

This Agreement, including the Schedules and Annexes hereto, exclusively and completely states the rights of the

Vendor and the Railroad with respect to the Equipment and supersedes all other agreements, oral or written, with respect to the Equipment. No variation or modification of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized officers of the Vendor and the Railroad.

ARTICLE 26. *Definitions.* The term "Vendor", whenever used in this Agreement, means, before any assignment of any of its rights hereunder, the corporation named in Item 1 of Schedule A hereto and any successor or successors for the time being to its manufacturing properties and business, and, after any such assignment, both any assignee or assignees for the time being of such particular assigned rights as regards such rights, and also any assignor as regards any rights hereunder that are retained or excluded from any assignment; and the term "Builder", whenever used in this Agreement, means, both before and after any such assignment, the corporation named in Item 1 of Schedule A hereto and any successor or successors for the time being to its manufacturing properties and business.

EXHIBIT A

CONDITIONAL SALE AGREEMENT

Between

THE DETROIT BANK AND TRUST COMPANY

and

BAY DEVELOPMENT COMPANY

CONDITIONAL SALE AGREEMENT, dated as of February 7, 1975, between the corporation named in Item 1 of Schedule A hereto (hereinafter called the Vendor or Builder, as more particularly set forth in Article 26 hereof), and BAY DEVELOPMENT COMPANY, a Michigan corporation (hereinafter called the Railroad).

WHEREAS, the Vendor has agreed to sell to the Railroad, and the Railroad has agreed to purchase, the railroad equipment described in Schedule B attached hereto (hereinafter called the Equipment);

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto do hereby agree as follows:

Article 1. Incorporation of Model Provisions

Whenever this Agreement incorporates herein by reference, in whole or in part or as hereby amended, any provision of the document entitled "Model Conditional Sale Provisions" annexed to this Agreement as Part I of Annex A hereto (hereinafter called the Model CSA Provisions), such provision of the Model CSA Provisions shall be deemed to be a part of this instrument as fully to all intents and purposes as though such provision had been set forth in full in this instrument.

Article 2. Sale

Pursuant to this Agreement, the Vendor will sell to the Railroad, and the Railroad will purchase from the Vendor and pay for (as hereinafter provided), the Equipment listed and described in Schedule B attached hereto, which Equipment is presently in the possession, or under the control, of the Railroad.

Article 3. Inspection and Delivery

The Railroad acknowledges that it has heretofore inspected, accepted delivery of and delivered a Certificate of Acceptance for the Equipment.

Article 4. Purchase Price and Payment

The total base price of the Equipment is set forth in Schedule B hereto. The total base price may be increased or decreased by agreement of the Vendor and the Railroad; provided, however, that the total base price shall not exceed \$250,000. The term "Purchase Price" as used herein shall mean the total base price for the Equipment as it may be increased or decreased in the manner herein provided.

The Railroad hereby acknowledges itself to be indebted to the Vendor in the amount of, and hereby promises to pay in cash to the Vendor at such place as the Vendor may designate, the Purchase Price of the Equipment in 120 Consecutive Equal (except for appropriate adjustments of the final installment in case the amount payable shall not, when divided by 120, result in an amount ending in an integral cent) monthly installments, as hereinafter provided (the aggregate of said installments being hereinafter called the Conditional Sale Indebtedness).

The first installment of the Conditional Sale Indebtedness payable pursuant to this Article 4 shall be payable on March 5, 1975, 1975 and subsequent installments shall be payable monthly thereafter on the fifth business day of each month to and including February 5, 1985. The unpaid Conditional Sale Indebtedness shall bear interest from

the Closing Date at the rate of 1% per annum above the prime rate of The Detroit Bank and Trust Company, a Michigan banking corporation, with adjustments in such rate to be effective on the fifth day of the month following any increase or decrease in such prime rate. In the event the aforementioned Bank's prime rate shall change more than one time during any such month, the change in the rate of interest applicable hereunder shall be equal to the prime rate of the last calendar day of the current month.

All payments provided for in this Agreement shall be made in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. The Railroad may without penalty prepay the Conditional Sale Indebtedness, or a portion thereof not less than \$1,000, provided that any amounts so prepaid shall be applied to reduce installments thereafter falling due in the inverse order of maturity thereof.

Article 5. Taxes

Article 5 of the Model CSA Provisions is herein incorporated as Article 5 hereof.

Article 6. Title to the Equipment

Article 6 of the Model CSA Provisions is herein incorporated as Article 6 hereof.

Article 7. Marking of Equipment

Article 7 of the Model CSA Provisions is amended by (i) changing the words "the name of the Vendor followed by the words 'Agent, Owner' " in the ninth and tenth lines of the first paragraph thereof to "the words 'Owned by The Detroit Bank and Trust Company, Detroit, Michigan, under Security Agreement filed under Interstate Commerce Act, Section 20c' "; (ii) deleting the words "name and" in the seventeenth and nineteenth lines of the first paragraph thereof; and (iii) adding a new paragraph at the end thereof reading as follows:

"Except as above provided, the Railroad will not allow the name of any person, association or corporation to be placed on the Equipment as a designation that might be interpreted, as a claim of ownership; provided, however, that the Railroad may cause the Equipment to be lettered 'Detroit and Mackinac Railway Company' or in some other appropriate manner for convenience of identification of the interest of the Railroad, or of any lessee of the Railroad, therein."

Article 7 of the Model CSA Provisions, as so amended, is herein incorporated as Article 7 hereof.

Article 8. Lost or Destroyed Equipment

In the event that the Equipment shall be worn out, lost, destroyed, irreparably damaged, seized by the government or otherwise rendered permanently unfit for use from any cause whatsoever (such occurrences being hereinafter called Casualty Occurrences) prior to the payment of the full indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon and all other payments required hereby, the Railroad shall promptly and fully inform the Vendor in regard thereto. When the aggregate Casualty Value (as defined herein) of units having suffered a Casualty Occurrence (exclusive of units having suffered a Casualty Occurrence with respect to which a payment shall have been made to the Vendor pursuant to this Article 8), shall exceed \$50,000 the Railroad, within 30 days after it has knowledge of such event, shall promptly pay to the Vendor a sum equal to the aggregate Casualty Value of such units as of the date of such payment and shall file with the Vendor a certificate of a Vice President or the Treasurer of the Railroad setting forth the Casualty Value of each unit of the Equipment suffering a Casualty Occurrence.

Any money paid to the Vendor pursuant to the preceding paragraph of this Article 8 shall, so long as none of the events of default specified in Article 18 hereof shall have happened and be continuing, be applied, in whole or in part, as the Railroad may direct in a written instrument filed with the Vendor, to prepay installments of indebtedness payable pursuant to the sixth paragraph of Article 4 hereof or toward the cost of a unit or units of standard gauge railroad equipment similar in type to the Equipment first put into service to replace such unit suffering a Casualty Occurrence. Of such replacement equipment shall be equipment theretofore used in railroad service, the Railroad shall deliver to the Vendor a certificate of a Vice President or the Treasurer of the Railroad that the cost of such equipment does not exceed the fair value thereof. In case any money is applied to prepay indebtedness, it shall be so applied, on the installment date for the payment of Conditional Sale Indebtedness next following receipt by the Vendor of such written direction, to reduce installments thereafter falling due in the inverse order of maturity thereof without premium.

The Casualty Value of the Equipment (other than a replacement unit) shall be deemed to be that amount which bears the same ratio to the original Purchase Price thereof (less, in the event that the Railroad shall have made any payment or payments under the provisions of the sixth paragraph of Article 4 hereof, an amount which bears the same ratio to the aggregate of all such payments as the original Purchase Price of such unit bears to the original aggregate Purchase Price of all the Equipment) as the unpaid Conditional Sale Indebtedness (without giving effect to any prepayments then or theretofore made) as of the date payment is made with respect to such Casualty Occurrence bears to the original Conditional Sale Indebtedness.

The Casualty Value of the replacement unit shall be deemed to be that amount which bears the same ratio to the portion of the cost thereof paid by the Vendor as the unpaid Conditional Sale Indebtedness (without giving effect to any prepayments then or theretofore made) as of the date payment is made with respect to such Casualty Occurrence bears to the unpaid Conditional Sale Indebtedness (without giving effect to any such prepayments) as of the date of acquisition by the Vendor of such replacement unit.

The Railroad will cause any replacement unit to be marked as provided in Article 7 hereof. Any and all such replacements of Equipment shall constitute accessions to the Equipment and shall be subject to all appropriate terms and conditions of this Agreement as though part of the original Equipment delivered hereunder and shall be included in the term "Equipment" as used in this Agreement. Title to all such replacement units shall be free and clear of all liens and encumbrances except the liens permitted by the second paragraph of Article 14 hereof and shall be taken initially and shall remain in the name of the Vendor subject to the provisions hereof, and the Railroad shall execute, acknowledge, deliver, file, record or deposit all such documents and do any and all such acts as may be necessary to cause such replacement units to come under and be subject to this Agreement. All such replacement units shall be warranted in like manner as is customary at the time for similar equipment. Whenever the Railroad shall file with the Vendor a written direction to apply amounts toward the cost of a replacement unit, the Railroad shall file therewith executed counterparts of an opinion of counsel covering the matters set forth in this paragraph.

So long as none of the events of default specified in Article 18 hereof shall have happened and be continuing, any money paid to the Vendor pursuant to this Article 8 shall, if the Railroad shall in writing so direct, be invested, pending its application as hereinabove provided, (i) in such direct obligations of the United States of America or any political subdivision thereof or obligations for which the faith of the United States is pledged to provide for the payment of principal and interest, (ii) or open market commercial paper rated at least "A" or its equivalent by a national rating agency, or (iii) in certificates of deposit of commercial banks of the United States of America having capital and surplus aggregating at least \$40,000,000 in each case maturing in not more than one year from the date of such investment (hereinafter called Investments), as may be specified in such written direction. Any such obligations shall from time to time be sold and the proceeds reinvested in such Investments as the Railroad may in writing direct. Any interest received by the Vendor on any Investments shall be held by the Vendor and applied as herein provided. Upon any sale or the maturity of any Investments, the proceeds thereof, plus any interest received by the Vendor thereon, up to the cost (including accrued interest) thereof, shall be held by the Vendor for application pursuant to this Article 8, and any excess shall be paid to the Railroad. If such proceeds (plus

such interest) shall be less than such cost, the Railroad will promptly pay to the Vendor an amount equal to such deficiency. The Railroad will pay all expenses incurred by the Vendor in connection with the purchase and sale of Investments.

If one of the events of default specified in Article 18 hereof shall have happened and be continuing, then so long as such event of default shall continue all money then held by the Vendor pursuant to this Article 8 (including for this purpose Investments) shall be applied by the Vendor as if such money were money received upon the sale of Equipment pursuant to Article 19 hereof.

In order to facilitate the sale or other disposition of Equipment suffering a Casualty Occurrence, the Vendor shall, upon request of the Railroad, after payment by the Railroad of a sum equal to the Casualty Value of such Equipment, execute and deliver to the Railroad or the Railroad's vendee, assignee or nominee, a bill of sale (without warranties) for such Equipment, and such other documents as may be required to release such Equipment from the terms and scope of this Agreement, in such form as may be reasonably requested by the Railroad.

Article 9. Maintenance and Repair

The Railroad will at all times maintain the Equipment or cause the Equipment to be maintained in good order and repair at its own expense.

Article 10. Vendor's Warranty of Material and Workmanship

The agreement of the parties relating to the Vendor's warranty is set forth in its entirety in Item 2 of Schedule A hereto.

Article 11. Compliance with Laws and Rules

Article 11 of the Model CSA Provisions is herein incorporated as Article 11 hereof.

Article 12. Reports and Inspections

Article 12 of the Model CSA Provisions is herein incorporated as Article 12 hereof.

Article 13. Possession and use

Article 13 of the Model CSA Provisions is hereby amended by striking out the phrase "from and after delivery of the Equipment by the Builder to the Railroad" from the eleventh and twelfth lines thereof. Article 13 of the Model CSA Provisions, as so amended, is herein incorporated as Article 13 hereof.

Article 14. Prohibition Against Liens

Article 14 of the Model CSA Provisions is herein incorporated as Article 14 hereof.

Article 15. Railroad's Indemnities

Article 15 of the Model CSA Provisions is herein incorporated as Article 15 hereof.

Article 16. Patent Indemnities

Not applicable.

Article 17. Assignments

Article 17 of the Model CSA Provisions is amended by (i) deleting the second sentence in the second paragraph of said Article 17 and substituting in its place a sentence providing that "no such assignment shall relieve the Railroad of any of its obligations hereunder, or of any other obligation owed by the Railroad to the Vendor which, according to its terms and context, is intended to survive an assignment"; (ii) deleting from the first sentence of the fourth paragraph of said Article 17 the words "of railroad equipment manufacturers" and deleting the words "is contemplated" and replacing them with the words "may occur"; and (iii) deleting the sixth paragraph thereof (which is the second full paragraph on page number 13). Article 17 of the Model CSA Provisions, as so amended, is herein incorporated as Article 17 hereof.

Article 18. Defaults

Article 18 of the Model CSA Provisions is amended by changing subparagraph (f) thereof to read:

"(f) an event of default shall occur under any financing or other agreement between the Railroad and the Vendor."

Article 18 of the Model CSA Provisions, as so amended, is herein incorporated as Article 18 hereof.

Article 19. Remedies

Article 19 of the Model CSA Provisions is herein incorporated as Article 19 hereof.

Article 20. Applicable State Laws

Article 20 of the Model CSA Provisions is herein incorporated as Article 20 hereof.

Article 21. Recording

Article 21 of the Model CSA Provisions is herein incorporated as Article 21 hereof.

Article 22. Payment of Expenses

Railroad will pay all reasonable costs and expenses incident to this Agreement or related agreements entered into in connection with the transactions contemplated by this Agreement.

Article 23. Notice

Any notice hereunder to each of the parties designated below shall be deemed to be properly served if delivered or mailed to it at its chief place of business at the following specified addresses:

- (a) to the Railroad at 120 Oak Street, Tawas City, Michigan 48763, Attention: President,
- (b) to the Vendor at the address specified in Item 1 of Schedule A hereto,
- (c) to any assignee of the Vendor or of the Railroad, at such address as may have been furnished in writing to the Railroad or the Vendor, as the case may be, by such assignee,

or at such other address as may have been furnished in writing by such party to the other parties to this Agreement. The Railroad represents and warrants that its chief place of business is in the State of Michigan.

Article 24. Article Headings; Effect and Modification of Agreement

Article 24 of the Model CSA Provisions is herein incorporated as Article 24 hereof.

Article 25. Law Governing

The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of Michigan; provided, however, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act and such additional rights arising out of the filing, recording or depositing hereof and of any assignment hereof as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited.

Article 26. Definitions

Article 26 of the Model CSA Provisions is herein incorporated as Article 26 hereof, with the addition of the following provision: All references to Bay Development Company by use of the term "Railroad" in this Agreement and all other documents executed in connection with the transaction described herein are for the convenience of the parties hereto only and are not intended to impose upon said Bay Development Company any obligations or limitations imposed upon railroad by the State of Michigan, the Interstate Commerce Commission or any other governmental or regulatory entity under any statute, rule or regulation.

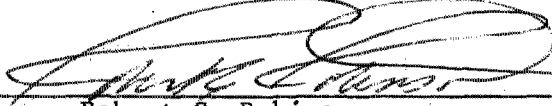
Article 27. Execution

Although this Agreement is dated for convenience as of _____
_____ the actual date or dates of execution
hereof by the parties hereto is or are, respectively, the date or
dates stated in the acknowledgements hereto annexed.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority,
have caused this instrument to be executed in their respective corporate names
by their officers, thereunto duly authorized, and their respective corporate seals
to be hereunto affixed, duly attested, all as of the date first written.

THE DETROIT BANK AND TRUST COMPANY


By


Robert C. Robinson

Its


Vice President


Attest:


James R. Cansler
Its Assistant Cashier

(Corporate Seal)

BAY DEVELOPMENT COMPANY

By


Charles A. Pinkerton, III

Its

President

By


Glen C. Highfield

Its

Secretary

Attest:

Its _____

(Corporate Seal)

State of Michigan)
) ss
County of Wayne)

On this 7th day of February, 1975, before me personally appeared Robert C. Robinson, to me personally known, who being by me duly sworn, says that he is a Vice President of The Detroit Bank and Trust Company, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



(Notarial Seal)

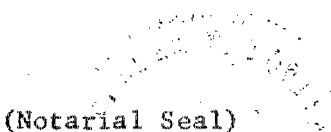
A handwritten signature in dark ink, appearing to read "Michael L. Kenny", is written over a horizontal line.

Notary Public, Wayne County, Michigan
My commission expires: _____

MICHAEL L. KENNY
Notary Public, Oakland County, Mich.
Acting in Wayne County, Mich.
My Commission Expires June 1, 1975

State of Michigan)
) ss
County of Wayne ~~XXXX~~)

On this 7th day of February, 1975, before me personally appeared Charles A. Pinkerton and Glen C. Highfield to me personally known, who being by me duly sworn, says that they are the President and Secretary of Bay Development, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



(Notarial Seal)

A handwritten signature in dark ink, appearing to read "Nicholas P. Bogaerts", is written over a horizontal line.

Notary Public, Wayne County, Michigan
My commission expires: _____

NICHOLAS P. BOGAERTS
Notary Public, Oakland County, Mich.
Acting in Wayne County, Mich.
My Commission Expires May 20, 1975

SCHEDULE A

- Item 1: The Detroit Bank and Trust Company, a Michigan banking corporation, 211 West Fort Street, Detroit, Michigan 48226.
- Item 2: THE UNIT OF EQUIPMENT IS SOLD BY THE VENDOR AND ACCEPTED BY THE RAILROAD "AS IS", AND THE VENDOR HEREBY DISCLAIMS AND DOES NOT MAKE, AND THE RAILROAD EXPRESSLY AGREES THAT THE VENDOR DOES NOT MAKE, ANY REPRESENTATION OR WARRANTY WITH RESPECT TO THE EQUIPMENT (WHETHER EXPRESS OR IMPLIED OR ARISING BY OPERATION OF LAW OR OTHERWISE), INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY OR ANY WARRANTY THAT ANY UNIT OF EQUIPMENT IS FIT FOR THE PURPOSES INTENDED BY THE RAILROAD.

SCHEDULE B

Description

One (1) Remanufactured Morrison Knudsen designed TE-56-4A Locomotive Serial No. 2584-03.